

Amendment # 50 : To restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient.

This amendment would require that the final rule implementing the Payment Error Rate Measurement (PERM) requirements under subsection shall be made not later than 6 months after the date of enactment of this Act.

Background

This legislation, in its current form, would effectively erase this long overdue progress by placing an unnecessary moratorium on the reporting requirements for Medicaid improper payment numbers. Section 601 of the bill states “The provision would prohibit the Secretary from calculating or publishing national or state-specific error rates based on PERM for CHIP until six months after the date on which a final PERM rule, issued after the date of enactment of this Act, is in effect for all states.” However, there is no deadline for a final rule. This amendment simply states that CMS releases a final rule on PERM no later than six months after the enactment of this Act.

This amendment is a fair compromise between those seeking clarification and guidance on PERM, while ensuring there will eventually be progress and movement to guarantee the continuation of the measuring of improper payments.

Six months is more than enough time for CMS to write and implement PERM guidance, especially considering it only took our Founding Fathers only four months (May 25-September 17, 1787) to write the Constitution and less than a week for this Administration to reverse the Mexico City policy on abortion.

Medicaid has the most improper payment in the entire federal government

The Medicaid composite error rate for FY 2008 is 10.5 percent, or \$32.7 billion of which the federal share is \$18.6 billion, and, for SCHIP, the rate is 14.7 percent, or \$1.2 billion, with a federal share of \$0.8 billion.¹ This marks the first time that SCHIP has reported its improper payment numbers for a full year. This groundbreaking information is a vital first step in gathering improper payment information in order to implement and monitor effective corrective actions to reduce the total amount of improper payments.

To put 10.5 percent and 14.7 percent into perspective, the Congressional Research Service notes that the average for each of the federal agencies already reporting their improper payments, the average federal agency rate is 3.5 percent.

This bill would ignore a law that CMS has had 7 years to prepare

With its current language, the bill would preclude Medicaid from a law that applies to the entire government and would facilitate the continued loss of billions in improper payments. Written in 2002, the Improper Payment Information Act aims to reduce the amount waste, fraud, and abuse in the federal government. This blatant disregard of the law is especially frightening as Medicaid, which is run by CMS, has the HIGHEST amount of improper payments in the federal government. Instead of intensifying oversight on the worst actor, we are essentially pardoning the guilty party.

Because Medicaid and SCHIP are Federal-State matching programs, improper payments by States lead to corresponding improper Federal payments. However, identifying payment errors,

¹ <http://www.cms.hhs.gov/apps/media/press/release.asp?Counter=3368>

their causes, and other vulnerabilities in the Medicaid is particularly challenging because of the diversity of State programs and the variation in their administrative and control systems.

CMS itself has advocated for more improper payment transparency

CMS is aware of the challenges, and noted that the “lack of information about payment error rates in Medicaid and SCHIP can present a substantial vulnerability in preventing and detecting fraud, waste, and abuse.” Kerry Weems, former director of CMS, went further stating “measuring performance, publicly reporting results, and providing payment incentives that encourage high quality and efficient care are paramount to keeping CMS accountable to the beneficiaries and American taxpayers.” This bill would strip the transparency and information CMS needs to detect and prevent waste, fraud, and abuse.

Following this law diligently and accurately does matter and the proof is in the pudding. Of the 33 agency programs that have reported improper payment estimated error rates for all 4 reporting years, 20 programs, or more than half, had reduced error rates when comparing a programs first error rate in 2005 with their most recent one. This important fact proves that compliance does in fact equal reduced improper payments and highlights the necessity for our amendment.

Supporting this amendment is consistent with President Obama’s pledge to make sure the government works.

During his inauguration speech, President Obama suggested, “The question we ask today is not whether our government is too big or too small, but whether it works.”

This amendment doesn't address whether Medicaid and SCHIP are too big or too small, but whether or not its current program management works.

We have a duty to make sure taxpayers are ONLY paying for the services and the people that are entitled to benefits. This is a simple amendment to shed some transparency on government bureaucracy.